

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on February 16, 2000 in Room 531-N of the Capitol.

All members were present except:
Sen. Hensley was excused

Committee staff present:
Lynne Holt, Legislative Research Department
Mary Torrence, Revisors of Statute Office
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
Larry Holloway, Acting Director of Utilities, Kansas Corporation Commission

Others attending:
See attached list

Sen. Ranson asked Sen. Tyson's pages to introduce themselves to the committee - they are assisting the committee today. Sen. Ranson announced the committee will continue the hearing for **Sub HB 2290-certain loans and pledges of credit by certain public utilities**. She recognized Larry Holloway who presented additional information regarding the bill (Attachment 1). Mr. Holloway pointed out three flaws in the statute in Section 1, and voiced the KCC staffs' preference is to repeal 66-1213. He added the KCC supported the bill last year, but were concerned about Section 1. He informed the committee that the Commission has changed the annual report and procedures for reporting to give them better information and a more comprehensive picture of an utility's financial condition. Also, the information requested in the bill would also be reviewed during a rate proceeding, or anytime the Commission believes the transactions are not in the public interest. Sen. Salisbury asked questions regarding the amendment adopted by the House Committee of the Whole, and the terms and conditions requirement outlined in the bill. Mr. Holloway expressed concern that if the terms were revealed before making loans or pledging credit the bidding process could be jeopardized. Sen. Ranson asked for clarification regarding Section 1, and Mr. Holloway stated it is their recommendation that Section 1 be stricken entirely. Sen. Lee also questioned in Line 19, regarding the 10 days before or after the loan or credit, and he clarified it is difficult for the commission to adhere to the 10 day requirement. Mr. Holloway stated the utility has obligations to its shareholders, and the commission is looking out for the ratepayers and how financial transactions effect them. There were no other conferees and she closed the hearing.

Sen. Salisbury made a motion to amend the bill (As outlined in the Committee Report, Attachment 2), and it was seconded by Sen. Brownlee; the motion passed. Sen. Salisbury made a motion the bill be passed out of committee, and it was seconded by Sen. Brownlee. Roll call vote was taken, and the Roll was left open so senators arriving late could vote. The tally was taken later in the meeting, and the motion passed.

Sen. Ranson called the committees' attention to **SB 514-natural gas pipeline safety; relating to compromise of civil penalties**, which the committee discussed yesterday. She referred to a proposed draft of an amendment to the bill and noted the Commission has not been successful collecting the monetary penalty. Mr. Holloway gave examples of penalties given in lieu of a monetary penalty, and added that public awareness, educational projects and the purchase of equipment could be substituted. Sen. Ranson also questioned if the KCC has personnel to follow-up with violators to be sure they are in compliance and to monitor the utility for compliance. Sen. Salisbury again expressed concern with the penalty section and its enforcement. Susan Cunningham, Attorney for the KCC, added that the program has had 100% compliance with penalties assessed, except for the one discussed in Mr. Haynos' testimony yesterday. Mr. Holloway stated the Commission argues the facts with the violating utility and negotiations begin and a proposal is discussed, just as though it were a trial. He stated the goal is not to increase the fines, but to ensure compliance with the Underground Utility Damage Protection Act and to look at the penalties to improve compliance and for other alternatives when assessing penalties. Ms. Holt

CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE, Room 531-N Statehouse, at 1:30 p.m.
on February 16, 2000.

Sen. Ranson asked the roll be opened on **Sub HB 2290** to allow Sen. Barone and Sen. Pugh to vote. They voted “yes”, and **Sub HB 2290 will be passed as amended.**

The committee returned to consideration of **SB 514**. In answer to a question from Sen. Jones regarding compromise language, Sen. Ranson indicated the committee is considering substitute language drawn by Ms. Torrence. Sen. Salisbury again stated her objection to the language regarding the penalty and making it discretionary. Ms. Cunningham stated the KCC wants the language to read that the “Commission shall impose a penalty, not may impose a penalty”. She added that the purpose of the bill is to make the penalty discretionary.

Sen. Ranson asked committees’ wishes on the bill. **Sen. Jones made a motion that SB 514 be amended and passed out of the committee, and it was seconded by Sen. Lee.** Roll Call vote was taken, **and the motion passed; SB 514 will be passed as amended.**

Sen. Ranson announced the committee will not meet on Thursday or Monday; but will meet on Tuesday of next week. She announced that the committee has been assigned a new permanent meeting room, which is Room 231-N, and the committee will meet there next Tuesday. She also announced the committee has been given the special assignment of investigating the well plugging issue.

Meeting adjourned at 2:20.

Next meeting will be February 22,2000.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 16, 2000

NAME	REPRESENTING
Larry Holloway	KCC
JC Long	UtiliCorp Limited Inc.
Brady Cantrell	WRB
Dave Holthaus	WR
Jon K Miles	KEC
Patrick Skerley	KOPF
Stan Kuma	WR, Inc.
Sandy Braden	McBull Coaches & Assn.
ED SCHAUB	WESTERN RESOURCES
Whitney Dammron	KS Gas Service / ONEOK
Eldridge Luber	ONEOK
Jim Ludwig	Western Resources
Mark Burghart	Western Assn.
Bill Haislip	KCC
Susan Cunningham	KCC
Leslie Davis	

A-1

**BEFORE THE SENATE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
FEBRUARY 15, 2000
SUBSTITUTE HOUSE BILL NO. 2290**

Thank you Madam Chair and members of the Committee. I am Larry Holloway, Acting Utilities Division Director with the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on Substitute House Bill No. 2290.

The Commission Staff supports repealing K.S.A. 66-1213 which addresses the loaning of money and pledging of credit by utilities to persons having an affiliated interest in the utility.

Staff supports repealing 66-1213 because the statute has three flaws. First, it requires Commission Staff to make a number of forecasts regarding the affiliate's financial health and its ability to meet its obligations to lenders. These forecasts are very speculative in nature. Second, it requires Staff to forecast the impact on the utility of paying off its affiliate's loan. Once again, such a forecast is both time consuming and very speculative in nature. Third, the statute allows only 10 days for Staff to complete this investigation.

In the past, the Commission Staff has worked around the flaws in 66-1213, requesting that the Commission include in its Order language to inform the company that approval under 66-1213 does not guarantee that it can pass related costs to ratepayers. In essence, the Commission's orders grant the company authority to carry out the transaction, but caution the company that it is very unlikely that associated costs will be allowed in rates. That is, if the pledge of credit has the effect of increasing the costs to the utility to obtain financing, the Commission reserved the right to protect ratepayers from these incremental costs. By including this language in the order, the companies are

*Senate Utilities
2-16-00
Attach. 1*

very aware that Staff is intent on protecting ratepayers from costs associated with loans and pledging credit to affiliates.

Instead of requiring companies to file under 66-1213 as it exists now OR as contemplated under Section 1, Staff believes it would be more effective to just repeal the statute.

The Commission agrees with the intent of the statute and Section 1, regulatory agencies do need to know the extent to which a utility has pledged its credit for its affiliates. To obtain this information in the future, the Commission will require utilities to include it in their annual reports beginning this year. The annual report method is preferable because it will provide a comprehensive picture of all the pledges entered into by the utilities.

Repealing 66-1213 would not leave consumers unprotected. The Commission has made changes to the annual reports filed by the utilities to collect better information on this issue. The Commission also has the authority to review costs associated with these transactions during rate proceedings or anytime it believes the transactions are not in the public interest.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Utilities** recommends **Substitute for HB 2290**, as amended by House Committee of the Whole, be amended on page 1, in line 15, by striking ", directly or indirectly,"; in line 18, by striking "not less"; in line 19, by striking all before "making" and inserting "within 10 days after"; in line 22, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

_____Chairperson

Senate Utilities
2-16-00
Attach. 2